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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,090	12/15/2003	Charles D. Hoke	10040070-1	3282
7590	04/06/2005			EXAMINER VU, PHU
AGILENT TECHNOLOGIES, INC. Intellectual Property Administration Legal Department, DL429 P.O. Box 7599 Loveland, CO 80537-0599			ART UNIT 2871	PAPER NUMBER
DATE MAILED: 04/06/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/736,090	HOKE ET AL.	
Examiner	Art Unit		
Phu Vu	2871		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 15 December 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-44 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) \_\_\_\_\_ is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) 1-44 are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date .

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: .

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 2, 7-18, drawn to a liquid crystal optical element with reservoir.
- II. Claims 3, 21-30, drawn to a liquid crystal optical element with inorganic alignment pattern.
- III. Claims 4, 33-41, drawn to a liquid crystal optical element with pump.
- IV. Claim 19 and 31, drawn to a liquid crystal optical element with a reservoir and alignment pattern
- V. Claim 5, 6, 20 and 42, drawn to a liquid crystal optical element with a reservoir and pump.
- VI. Claim 32 and 43, drawn to a liquid crystal optical element with a alignment pattern and pump.

Currently claims 1 and 44 are generic.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-VI are related as combination (I-III) and subcombination (IV-VI). Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because each group (I,II, III) is capable of

operating without the particulars of the subcombination (IV-VI). Each subcombination has separate utility such as a means for reducing contaminants of a liquid crystal cell.

Group I is an liquid crystal optical element with a means for reducing contaminants comprising a reservoir.

Group II is a liquid crystal optical element with means for reducing contaminants comprising an inorganic alignment pattern.

Group III is a liquid crystal optical element with a means for reducing contaminants comprising a pump operable to pump liquid crystal material through a cavity across the active area.

Group IV is a combination of groups I and II.

Group V is a combination of groups I and III.

Group VI is a combination of groups II and III.

Claim 2 presents evidence that Group I is patentably distinct from groups II-VI and can operate without the particulars of Groups II-VI. Claim 3 presents evidence that Group II is patentably distinct and can operate independent from Groups I, and III-VI.

Claim 4 presents evidence that Group III is patentably distinct and can operate independent from Groups I-II and IV – VI. Therefore, claims 2 and 3 present evidence that Group V is patentably distinct from Groups I-IV and VI and has utility as a means for reducing contaminants in a liquid crystal cell, claims 2 and 4 present evidence that Group V is patentably distinct from Groups I-IV and VI and has utility as a means for reducing contaminants in a liquid crystal cell, and claims 3 and 4 present evidence that

Group VI is patentably distinct from Groups I-V and has utility as means for reducing contaminants in a liquid crystal cell.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

***Conclusion***

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phu Vu whose telephone number is (571)-272-1562. The examiner can normally be reached on 8AM-5PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Kim can be reached on (571)-272-2293. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phu Vu  
Examiner  
AU 2871



ROBERT H. KIM  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800